

SENATE BILL 148

M4

2lr0009

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Agriculture)**

Introduced and read first time: January 18, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 15, 2012

CHAPTER _____

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation – Lot Release**

3 FOR the purpose of altering certain conditions that must be met before the Maryland
4 Agricultural Land Preservation Foundation is required to release certain lots
5 under a certain program; providing for the application of this Act; and generally
6 relating to the Maryland Agricultural Land Preservation Foundation.

7 BY repealing and reenacting, without amendments,
8 Article – Agriculture
9 Section 2–513(a) and (b)(1)
10 Annotated Code of Maryland
11 (2007 Replacement Volume and 2011 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Agriculture
14 Section 2–513(b)(2)
15 Annotated Code of Maryland
16 (2007 Replacement Volume and 2011 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Agriculture**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 2-513.

2 (a) Agricultural land preservation easements may be purchased under this
3 subtitle for any land in agricultural use which meets the minimum criteria established
4 under § 2-509 of this subtitle if the easement and county regulations governing the
5 use of the land include the following provisions:

6 (1) Any farm use of land is permitted.

7 (2) Operation at any time of any machinery used in farm production or
8 the primary processing of agricultural products is permitted.

9 (3) All normal agricultural operations performed in accordance with
10 good husbandry practices which do not cause bodily injury or directly endanger human
11 health are permitted including, but not limited to, sale of farm products produced on
12 the farm where such sales are made.

13 (b) (1) A landowner whose land is subject to an easement may not use the
14 land for any commercial, industrial, or residential purpose except:

15 (i) As determined by the Foundation, for farm- and
16 forest-related uses and home occupations; or

17 (ii) As otherwise provided under this section.

18 (2) Except as provided in paragraphs (3) and (7) of this subsection, on
19 written application, the Foundation shall release free of easement restrictions only for
20 the landowner who originally sold an easement, 1 acre or less for the purpose of
21 constructing a dwelling house for the use only of that landowner or child of the
22 landowner, up to a maximum of three lots, subject to the following conditions:

23 (i) The number of lots allowed to be released under this section,
24 except as provided in paragraph (7) of this subsection, may not exceed:

25 1. 1 lot if the size of the easement property is 20 acres or
26 more but fewer than 70 acres;

27 2. 2 lots if the size of the easement property is 70 acres
28 or more but fewer than 120 acres; or

29 3. 3 lots if the size of the easement property is 120 acres
30 or more.

31 (ii) The resulting density on the property may not exceed the
32 density allowed under zoning of the property before the Foundation purchased the
33 easement.

1 (iii) The landowner shall pay the State for any acre or portion
2 released at the price per acre that the State paid the owner for the easement.

3 (IV) IF THE RELEASE IS TO BE ISSUED FOR A CHILD OF THE
4 LANDOWNER, THE CHILD MUST BE AT LEAST 18 YEARS OF AGE AT THE DATE
5 THAT THE PRELIMINARY RELEASE IS ISSUED.

6 [(iv)] (V) Before any conveyance or release, the landowner and
7 the child, if there is a conveyance to a child, shall agree not to subdivide further for
8 residential purposes any acreage allowed to be released. The agreement shall be
9 recorded among the land records where the land is located and shall bind all future
10 owners.

11 [(v)] (VI) After certifying that the landowner or child of the
12 landowner has met the conditions provided in subparagraphs (i) through [(iv)] (V) of
13 this paragraph, the Foundation shall issue a preliminary release which shall:

14 1. Become final when the Foundation receives and
15 certifies a nontransferable building permit in the name of the landowner or child of
16 the landowner for construction of a dwelling house; or

17 2. Become void upon the death of the person for whose
18 benefit the release was intended if the Foundation has not yet received a building
19 permit as provided in this subparagraph[.]; OR

20 3. UNLESS EXTENDED BY A MAJORITY VOTE OF THE
21 FOUNDATION BOARD OF TRUSTEES, BECOME VOID IF A NONTRANSFERABLE
22 BUILDING PERMIT IN THE NAME OF THE LANDOWNER OR CHILD OF THE
23 LANDOWNER IS NOT RECEIVED BY THE FOUNDATION WITHIN 3 YEARS OF THE
24 DATE OF RECORDATION OF THE PRELIMINARY RELEASE.

25 [(vi)] (VII) Any release or preliminary release issued under this
26 paragraph shall include:

27 1. A statement of the conditions under which it was
28 issued, a certification by the Foundation that all necessary conditions for release or
29 preliminary release have been met, and copies of any pertinent documents;

30 2. A statement by the landowner or child of the
31 landowner that acknowledges that:

32 A. Adjacent farmland that is subject to an agricultural
33 land preservation easement may be used for any agricultural purpose and may
34 interfere with the use and enjoyment of the property through noise, odor, vibration,
35 fumes, dust, glare, or other interference;

1 B. There is no recourse against the effects of any normal
2 agricultural operation performed in accordance with good husbandry practices; [and]

3 **C. THE LANDOWNER’S OR CHILD’S LOT MAY NOT BE**
4 **TRANSFERRED FOR 5 YEARS FROM THE DATE OF THE FINAL RELEASE, EXCEPT**
5 **ON:**

6 **I. APPROVAL BY THE FOUNDATION; OR**

7 **II. NOTWITHSTANDING ANY CONDITIONS ON**
8 **TRANSFERS IMPOSED UNDER ITEM 1 OF THIS SUBPARAGRAPH, A LENDER**
9 **PROVIDING NOTICE TO THE FOUNDATION OF A TRANSFER PURSUANT TO A**
10 **BONA FIDE FORECLOSURE OF A MORTGAGE OR DEED OF TRUST OR TO A DEED IN**
11 **LIEU OF FORECLOSURE;**

12 **D. IF THE LOT IS NOT USED FOR THE PERSON OR**
13 **PURPOSE FOR WHICH IT WAS RELEASED FOR THE 5-YEAR PERIOD, THE**
14 **FOUNDATION MAY REQUIRE THE LOT OWNER TO RECONVEY THE LOT TO THE**
15 **OWNER OF THE LAND ENCUMBERED BY THE EASEMENT FROM WHICH IT WAS**
16 **RELEASED AND SUBJECT THE LOT TO THE RESTRICTIONS OF THE EASEMENT;**
17 **AND**

18 **[C.] E. Acknowledgments made under items A, [and]**
19 **B, C, AND D** of this item are binding to any successor or assign of the landowner or
20 child[; and

21 3. A statement that the owner’s or child’s lot may not be
22 transferred for 5 years from the date of the final release, except on:

23 A. Approval by the Foundation; or

24 B. Notwithstanding any conditions on transfers imposed
25 under item 1 of this subparagraph, a lender providing notice to the Foundation of a
26 transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed
27 in lieu of foreclosure.]

28 **[(vii)] (VIII)** Any release, preliminary release, building permit, or
29 other document issued or submitted in accordance with this paragraph shall be
30 recorded among the land records where the land is located and shall bind all future
31 owners.

32 **[(viii)] (IX)** The Foundation may not restrict the ability of a
33 landowner who originally sold an easement to acquire a release under this paragraph
34 beyond the requirements provided in this section.

1 **(X) THE FOUNDATION MAY REQUIRE EVIDENCE IT DEEMS**
 2 **SUFFICIENT TO ENSURE THAT THE PERSONS FOR WHOM THE LOTS ARE**
 3 **RELEASED OCCUPY THE DWELLINGS LOCATED ON THE LOTS FOR THE 5-YEAR**
 4 **PERIOD.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to any
 6 person who is subject to the restrictions of an agricultural land preservation easement
 7 held by the Maryland Agricultural Land Preservation Foundation and who has been
 8 granted a preliminary or final release before the effective date of this Act, or who has
 9 requested the preliminary or final release of a lot allowed under the easement on or
 10 after the effective date of this Act.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 12 July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.